

AMENDMENT UNDER 37 C.F.R. § 1.111 AND STATEMENT OF SUBSTANCE OF INTERVIEW

Application No.: 10/520,661

Attorney Docket No.: Q85625

REMARKS

Claims 1-57 are all the claims pending in the application. By this Amendment, Applicants amend claims 1-57 to better conform them to U.S. patent practice. Applicants respectfully submit, however, that the amendments do not create any estoppel in the application of the doctrine of equivalents.

Statement of Substance of Interview

As an initial matter, Applicants thank the Examiner for the courtesies extended during the interview conducted on June 10, 2008 regarding the 35 U.S.C. § 101 rejection. After consulting with a SPE within his art unit, the Examiner acknowledged that the rejection of claims 1-19 is improper and will be withdrawn without any action by the Applicants. The Interview Summary mailed on June 26, 2008 indicates the same.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

Specification Objection

The Specification is objected to due to a minor informality. The informality noted by the Examiner has been corrected. Thus, withdrawal of this objection is respectfully requested.

Claim Rejections - 35 U.S.C. § 101

Claims 1-19 and 39-57 are rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. As noted above in the 'Statement of Substance of Interview' section, the 35 U.S.C. § 101 rejection of claims 1-19 has been withdrawn by the Examiner. Further, Applicants respectfully submit that claims 39-57 comply with the requirements of 35 U.S.C. § 101.

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Claim Rejections - 35 U.S.C. § 112

Claims 1-57 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite.

Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. § 112.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 3, 4, 19, 20, 22, 23, 38, 39, 41, 42, and 57 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,956,569 to Roy *et al.* (“Roy”) in view of U.S. Patent No. 6,638,811 to Nagao *et al.* (“Nagao”). Claims 2, 5, 9, 14, 21, 24, 28, 33, 40, 43, 47, and 52 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Roy in view of Nagao and further in view of U.S. Patent No. 6,847,733 to Savakis *et al.* (“Savakis”). For *at least* the following reasons, Applicants respectfully traverse the rejection.

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Roy does not qualify as prior art

Applicants do not acquiesce to this rejection. Further, Applicants respectfully submit that Roy fails to qualify as prior art with respect to the instant application. Applicants note that the instant application and Roy were, at the time the invention of the instant application was made, commonly owned by NEC. It is further noted that Roy is prior art only under 35 U.S.C. §102(e). Pursuant to 35 U.S.C. §103(c), subject matter developed by another person, which qualifies as prior art only under 35 U.S.C. §102(e) shall not preclude patentability where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same entity or subject to an obligation of assignment to the same person. Therefore, Roy can not preclude patentability of the instant application under the provisions of 35 U.S.C. § 103(c).

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of the claims.

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Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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